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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/581,440

03/16/2007

Philippe Doue

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8475

8791

7590

10/06/2011

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EXAMINER

PASCUA, JES F

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

10/06/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/581,440	DOUE, PHILIPPE	
	Examiner	Art Unit	
	JES F. PASCUA	3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-3,5-8 and 10-20 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-3,5-8 and 10-20 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/20/2010 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-13, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 10-13, the structural relationship and association between the "closure element" and the "element designed to provide for a re-closable opening" in claim 1 has not been clearly set forth. Clarification of the claims is requested.

In claims 16 and 17, "the gusset" lacks antecedence in the claim from which it depends.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 6, 10 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,953,708 to Beer et al.

Beer et al. discloses a packaging bag that includes two flaps (30C, 30D) and a bag body, each flap being folded back along a fold line (30A) against opposite faces (26, 28) of the bag body and held in this position by a detachable connecting element (aligned adhesives 42). Beer et al. further discloses an element (48, 50, 56) designed to provide for a reclosable opening (54) which extends perpendicular to the fold line (30A) and covers the full width of the flaps (30C, 30D) and at least a substantial width of the bag body section which lies under the fold line.

6. Claims 1, 2, 5, 7, 10, 14-18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,150,824 to Alvarez et al.

Alvarez et al. discloses a packaging bag (12) that includes at least one flap and a bag body, the flap being folded back along a fold line against a face of the bag body (Figs. 1, 4 and 5) and held in this position by a detachable connecting element (26, 27). Beer et al. further discloses an element (20) designed to provide for a reclosable opening which extends perpendicular to the fold line and covers the full width of the

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flaps and at least a substantial width of the bag body section which lies under the fold line.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,150,824 to Alvarez et al.

Alvarez et al. discloses the claimed invention except for the detachable connecting elements being hook and loop complementary elements instead of at least one self-adhesive strip or male/ female hooked elements. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the hook and loop complementary elements of Alvarez et al. with at least one self-adhesive strip or male/ female hooked elements since the Examiner takes Official Notice of the equivalence of hook and loop complementary elements and at least one self-adhesive strip or male/ female hooked elements for their use in the bag art and the selection of any of these known equivalents to detachable connect the flap to the face of the Alvarez et al. bag body would be within the level of ordinary skill in the art.

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9. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,150,824 to Alvarez et al.

Alvarez et al. discloses the claimed invention except for the closure element being a zipper (or self-sticking adhesive) instead of hook and loop elements or male, female or hooked extrusions with a slide. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the zipper (or self-sticking adhesive) of the Alvarez et al. closure element with hook and loop elements or male, female or hooked extrusions with a slide, since the Examiner takes Official Notice of the equivalence of zipper (or self-sticking adhesive) and hook and loop elements or male, female or hooked extrusions with a slide for their use in the bag art and the selection of any of these known equivalents to provide a re-closable opening in the Alvarez et al. bag would be within the level of ordinary skill in the art.

Response to Arguments

10. Applicant's arguments with respect to claims 1-3, 5-8 and 10-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JES F. PASCUA whose telephone number is (571)272-4546. The examiner can normally be reached on Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/

Primary Examiner, Art Unit 3782